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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/662,917

09/15/2003

Iqbal Jami

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02/05/2010

Docket Administrator - Room 3D-201E

Alcatel-Lucent USA Inc.

600-700 Mountain Avenue

Murray Hill, NJ 07974

EXAMINER

HO, HUY C

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

02/05/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/662,917	Applicant(s) JAMI ET AL.	
	Examiner HUY C. HO	Art Unit 2617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-3, 5-8 and 10-16.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Patrick N. Edouard/
 Supervisory Patent Examiner, Art Unit 2617

/Huy C Ho/
 Examiner, Art Unit 2617

Continuation of 11. does NOT place the application in condition for allowance because: The main arguments on pages 5-8 : "Reference Vialen fails to teach or suggest deciding to switch between dedicated and shared channels dependent upon the determination of acknowledgment receipt on the shared channel", the examiner respectfully disagrees because Vialen, in same analogous art with references Winberg and Helmersson, which both teach switching between channels dedicated and common channels in the UMTS system based on parameters, e.g., buffer levels, data throughput levels, therefore determining weather or not to switch between channels in order to improve data throughputs for the system (see Winberg, the abstract, page 2 lines 10-30, page 4 lines 1-25, page 5 lines 5-33), and Helmersson teaches switching scheme between common and dedicated channels based on signal link quality (see Helmersson, page 9 lines 15-30, page 10 lines 29-30, page 11 lines 1-30), reference Vialen teaches method and system making decision about which channel is used for transferring packet data based on channel selection of a wide range of parameters and values that are transmitted on a common channel such as Broadcast channel BCH and Forwarding channel FACH. The parameters concern for all mobile stations in the system are sent on the common channel to all stations for decision whether to use common or dedicated channels, the mobile stations receive information from these parameters on the common channel, send acknowledgments along with the parameters then the system based upon the selected parameters and the acknowledgments received on the common channel, making determination of which channel should be used (see Vialen, the abstract, col 2 lines 60-67, col 2 lines 1-10, 30-67, col 4 lines 1-35). Therefore, Vialen teaches and discloses switch between dedicated and shared channels dependent upon the determination of acknowledgment receipt on the shared channel.

On pages 8-9, the arguments for claims 6 and 11, the system claims, that argue for the similar features as claimed in method claim 1, i.e., a decision means indicating whether or not the shared channel in a mode of ACK receipt thus making a channel transfer accordingly, based upon the same response for the argument of method claim 1 above, thus the argued features read upon the cited references. Therefore the argued features were written such that they read upon the cited references. .